

Remarks

In the Office action, claims 1-32 were allowed, claims 33-46 and 64-83 were rejected, and claims 47-63 were objected to, but indicated to be allowable if rewritten in independent form.

By way of the foregoing amendment claims 1, 2, 45, and 46 have been cancelled without prejudice, and claims 3-20 and 47-64, and 72 have been rewritten to be in independent form. Additionally, "step for" language has been eliminated from claims 21-28 to make clear that such claims should not be interpreted to be under 35 U.S.C. 112, paragraph 6. Accordingly, claims 3-44 and 47-83 are pending in the above identified patent application. Of the pending claims, claims 3-21, 33, 47-64, and 72 are independent. In view of the foregoing amendments and the following remarks, reconsideration of the application is respectfully requested.

Claims 3-20 were indicated to be allowable in the prior Office action. However, upon review of the prior art, claims 1 and 2 have been cancelled and claims 3-20 have been rewritten to be in independent form. Applicants respectfully submit that claims 1 and 2 may have been too broad with respect to the disclosure of the cited Coffee patent. Accordingly, applicants have cancelled such claims. Applicants do believe, however, that the recitations of claims 3-20 are not found in any of the cited references and, therefore, such claims are believed to be in condition for allowance.

Claims 21-32 were previously indicated to be allowable and, therefore, should be in condition for allowance.

Claim 33 has been rejected as anticipated by the Coffee patent. The Coffee patent does not, however, appear to disclose or suggest second program code executable to determine an ancillary identification code relating to the displayed video. In fact, the examiner's rejection of claim 33 does not indicate that the Coffee patent makes such a disclosure. Further, on page 3 of the Office action, the examiner concedes that the Coffee patent does not make such a disclosure. Because the Coffee patent does not disclose or suggest all of the elements recited in claim 33, it is respectfully submitted that claim 33 and

claims 34-44 dependent directly or indirectly thereon are not anticipated by the Coffee patent and, therefore, are in condition for allowance.

Claims 47-63, which were indicated to be allowable if presented in independent form, have been rewritten in independent form and, therefore, it is respectfully submitted, are in condition for allowance.

Claim 64, which is now rewritten in independent form, recites a software meter having first program code to determine whether the viewing device has a COM interface or an API interface and second program code to determine channel data from a channel related object of the COM interface or from application related data associated with a video application through the API interface. It is respectfully submitted that none of the cited art discloses or suggests such recitations. In fact, the examiner's reasons for allowance specifically recite that the prior art of record fails to disclose or suggest determining whether devices interface with COM or API interfaces and calling either the API or the COM interface to determine associated channel data associated with a video application. It is respectfully submitted that claims 64-71 are in condition for allowance.

Claim 72, which is now presented in independent form, recites second program code executable to determine an ancillary identification code relating to displayed video. Claim 72 has been rejected over a combination of the Coffee patent and the Hawkins patent. However, it is respectfully submitted, that neither of these references discloses or suggests determining an ancillary identification code relating to displayed video. For example, the Hawkins patent discloses determining tuning information based on program identification (PID). However, the Hawkins patent does not disclose or suggest determining an ancillary code relating to displayed video.

Furthermore, there is no motivation for the proposed combination. The Coffee patent is directed to a system for monitoring windows operating system messages to determine computer program usage. For example, the Coffee patent discloses logging of window minimization and size restoration. The Hawkins patent, on the other hand, is directed to a delivery system for distributing video information. The Hawkins patent does disclose gathering viewing information for a number of viewers, but such disclosure does not mention the use of ancillary identification codes related to displayed video or that such codes could or

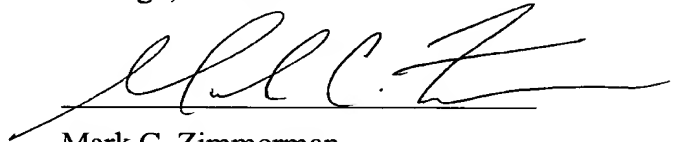
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should be used in conjunction with a system (such as Coffee) that monitors windows messages to track application usage. Accordingly, it is respectfully submitted that claim 72, and claims 73-83 dependent thereon, are in condition for allowance.

Reconsideration of the application and allowance thereof are respectfully requested. If there is any matter that the examiner would like to discuss, the examiner is invited to contact the undersigned representative at the telephone number set forth below.

Respectfully submitted,
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A handwritten signature in black ink, appearing to read 'M.C. Zimmerman', is written over a horizontal line.

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